

deemed necessary to prove actual exportation of the articles from the United States for processing, such as a foreign customs entry, foreign customs invoice, foreign landing certificate, bill of lading, or an airway bill.

(c) If the port director concerned is satisfied, because of the nature of the articles or production of other evidence, that the articles are imported under circumstances meeting the requirements of subheading 9802.00.60, HTSUS, and related section and additional U.S. notes, he may waive submission of the declarations provided for in paragraph (a) of this section.

(d) The port director shall require at the time of entry a deposit of estimated duties based upon the full cost or value of the processing. The cost or value of the processing outside the United States, which is to be set forth in the invoice and entry papers as the basis for the assessment of duty under subheading 9802.00.60, HTSUS, shall be limited to the cost or value of the processing actually performed abroad, which will include all domestic and foreign articles used in the processing but shall not include the exported United States metal article or any of the expenses incurred in this country whether by way of engineering costs, preparation of plans or specifications, furnishing of tools or equipment for doing the processing abroad, or otherwise.

[T.D. 94-47, 59 FR 25568, May 17, 1994]

§ 10.10 [Reserved]

ARTICLES ASSEMBLED ABROAD WITH UNITED STATES COMPONENTS

§ 10.11 General.

(a) Sections 10.12 through 10.23 set forth definitions and interpretative regulations adopted by the Commissioner of Customs pertaining to the construction of subheading 9802.00.80, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202) and related provisions of law. These provisions concern claims for the exemption from duty provided by subheading 9802.00.80, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), for American-made fabricated components which are returned to the United States as parts of articles assembled

abroad. The examples included in these sections describe specific situations in which the exemption may or may not be applicable. The definitions and regulations that follow are promulgated to inform the public of the constructions and interpretations that the United States Customs Service shall give to relevant statutory terms and to assure the impartial and uniform assessment of duties upon merchandise claimed to be partially exempt from duty under subheading 9802.00.80, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), at the various ports of entry. Nothing in these regulations purports or is intended to restrict the legal right of importers or others to a judicial review of the matters contained therein.

(b) Section 10.24 sets forth the documentary requirements applicable to the entry of assembled articles claimed to be subject to the exemption provided under subheading 9802.00.80, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202). Allowance of an importer's claim is dependent upon meeting the statutory requirements for the exemption under subheading 9802.00.80, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202) and his complying with the documentary requirements set forth in § 10.24.

[T.D. 75-230, 40 FR 43021, Sept. 18, 1975, as amended by T.D. 89-1, 53 FR 51247, Dec. 21, 1988; T.D. 97-82, 62 FR 51769, Oct. 3, 1997]

§ 10.12 Definitions.

As used in §§ 10.11 through 10.24, the following terms shall have the meanings indicated:

(a) *American-made*. The term “American-made” is used to refer to a product of the United States as defined in paragraph (e) of this section.

(b) *Assembly*. “Assembly” means the fitting or joining together of fabricated components.

(c) *Exemption*. “Exemption” means the deduction of the cost or value of products of the United States which were assembled abroad in accordance with the requirements of subheading 9802.00.80, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), from the full value of the assembled article.

§ 10.13

(d) *Fabricated component*. “Fabricated component” means a manufactured article ready for assembly in the condition as exported except for operations incidental to the assembly.

(e) *Product of the United States*. A “product of the United States” is an article manufactured within the Customs territory of the United States and may consist wholly of United States components or materials, of United States and foreign components or materials, or wholly of foreign components or materials. If the article consists wholly or partially of foreign components or materials, the manufacturing process must be such that the foreign components or materials have been substantially transformed into a new and different article, or have been merged into a new and different article.

[T.D. 75-230, 40 FR 43021, Sept. 18, 1975, as amended by T.D. 89-1, 53 FR 51247, Dec. 21, 1988]

§ 10.13 Statutory provision: Subheading 9802.00.80, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202).

Subheading 9802.00.80, Harmonized Tariff Schedule of the United States (HTSUS), (19 U.S.C. 1202), provides that articles assembled abroad in whole or in part of fabricated components, the product of the United States, which (a) were exported in condition ready for assembly without further fabrication, (b) have not lost their physical identity in such articles by change in form, shape, or otherwise, and (c) have not been advanced in value or improved in condition abroad except by being assembled and except by operations incidental to the assembly process such as cleaning, lubricating, and painting, are subject to a duty upon the full value of the imported article, less the cost or, if no charge is made, the value of such products of the United States. The rate of duty which is assessed upon the dutiable portion of the imported article is that which is applicable to the imported article as a whole under the appropriate provision of the HTSUS (19 U.S.C. 1202) for such article. If that provision requires a specific or compound rate of duty, the total duties assessed on the imported article are re-

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duced in such proportion as the cost or value of the returned United States components which qualify for the exemption bears to the full value of the assembled article.

Example 1. A transistor radio is assembled abroad from foreign-made components and American-made transistors. Upon importation, the transistor radio is subject to the ad valorem rate of duty applicable to transistor radios upon the value of the radio less the cost or value of the American-made transistors assembled therein.

Example 2. A solid-state watch movement is assembled abroad from foreign-made components and an American-made integrated circuit. If the movement in question is subject to the specific rate of duty of 75 cents if the value of the assembled movement is \$30, and if the value of the American-made integrated circuit is \$10, then the value of the integrated circuit represents one third of the total value of the assembled article and the duty on the assembled article will be reduced by one third (\$.25). Therefore, the duty on the assembled movement is 50 cents.

[T.D. 75-230, 40 FR 43021, Sept. 18, 1975, as amended by T.D. 89-1, 53 FR 51247, Dec. 21, 1988]

§ 10.14 Fabricated components subject to the exemption.

(a) *Fabricated components, the product of the United States*. Except as provided in § 10.15, the exemption provided under subheading 9802.00.80, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202), applies to fabricated components, the product of the United States. The components must be in condition ready for assembly without further fabrication at the time of their exportation from the United States to qualify for the exemption. Components will not lose their entitlement to the exemption by being subjected to operations incidental to the assembly either before, during, or after their assembly with other components. Materials undefined in final dimensions and shapes, which are cut into specific shapes or patterns abroad are not considered fabricated components.

Example 1. Articles identifiable in their exported condition as components or parts of the article into which they will be assembled, such as transistors, diodes, integrated circuits, machinery parts, or precut parts of wearing apparel, are regarded as fabricated components.